IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6352 of 2007()

CRIME NO. 250/2007 OF PUNALUR POLICE STATION

PETITIONER/IST ACCUSED

A.S.MATHEW,S/O. SELVARAJ, VATTOLIL (H)
NEAR GOVT. HOSPITAL, KOZHENCHERRY,
PATHANAMTHITTA DISTRICTA.

BY ADV. SRI.V.SETHUNATH

RESPONDENTS: COMPLAINANT/STATE

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1. THE SUB INSPECTOR, PUNALUR
PUNALUR POLICE STATION.

2. STATE OF KERALA,REPRESENTED BY THE
PUBLIC PROSECUTORA,HIGH COURT OOFO KERALA
ERNAKULAM

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6352 of 2007

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Dated this the 22nd day of October, 2007

ORDER

Application for anticipatory bail. Petitioner is the husband of the defacto complainant. Crime has been registered on the basis a private complaint filed before the learned Magistrate and referred under Sec.156(3) Cr.P.C. to the Police. Investigation is in progress.

2. The marriage took place on 19.10.04. One child was born in the wedlock. The petitioner has come to this Court apprehending arrest. There is strain in the matrimony. According to the learned counsel for the petitioner, false,vexatious and exaggerated allegations are being raised solely because of the said strain in the matrimonial tie.

3. The learned Public Prosecutor submits that the investigation is complete. Final report has been filed on 20.8.07. The arrest of the petitioner is not required now. The State has no objection in granting anticipatory bail to the petitioner. The petitioner may surrender before the learned Magistrate, submits the learned Public Prosecutor.

4. After the decision in **Bharat Chaudhary v. State of Bihar** [A.I.R 2003 S.C 4662], it is trite that powers under Section 438 Cr.P.C can be invoked in favour of a person who apprehends arrest in

execution of a non bailable warrant issued by a court in a pending proceedings. But even for that, sufficient and satisfactory reasons must be shown to exist. I am satisfied that this is a fit case where directions under Section 438 can be issued in favour of the petitioner.

5. In the result, this application is allowed. The following directions were issued under Section 438 Cr.P.C. in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 29/10/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 1 p.m on 30/10/2007 and thereafter as and when directed by the Investigating Officer in writing to do so.

(iv) If the petitioner does not appear before the learned

Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the Police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 29/10/2007, he shall be released on bail on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 29/10/2007.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE